

CHAPTER 1
Vernon County
MANURE STORAGE ORDINANCE

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VERNON COUNTY MANURE STORAGE ORDINANCE

1.01 AUTHORITY

This ordinance is adopted under authority granted by sections 59.02, 59.03, and 92.16, Wisconsin Statutes.

1.02 TITLE

This ordinance shall be known as, referred to, and may be cited as the Vernon County Animal Manure Storage Ordinance and is hereinafter referred to as the "ordinance".

1.03 FINDINGS AND DECLARATION OF POLICY

The Vernon County Board of Supervisors finds that storage of animal manure in storage facilities not meeting technical design and construction standards is a threat to cause pollution of the surface and ground waters of Vernon County, and may result in harm to the health of county residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Vernon County.

The Vernon County Board of Supervisors further finds that the technical standards developed by the United States Department of Agriculture Natural Resources Conservation Service (USDA- NRCS), as applied by the Land and Water Conservation Committee, provide effective, practical, and environmentally safe methods of storing and utilizing animal manure.

1.04 PURPOSE

The purpose of this ordinance is to regulate the location, design, construction, installation, alteration, closure, and use of animal manure storage facilities, in order to prevent water pollution and thereby protect the health of Vernon County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Vernon County. It is also intended to provide for the administration and enforcement of the ordinance and to provide penalties for its violation.

1.05 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Vernon County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.06 SEVERABILITY CLAUSE

If any section, provision, or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

1.07 APPLICABILITY

This Chapter applies to all areas of Vernon County.

1.08 EFFECTIVE DATE

This ordinance shall become effective upon its adoption by the full Vernon County Board of Supervisors and required publication.

1.09 DEFINITIONS

- 1) *"Applicant"* means any person who applies for a permit under this ordinance.
- 2) *"County Conservationist"* means the department head for the Vernon County Land and Water Conservation Department.
- 3) *"Idle Storage Facility"* means a manure storage facility where manure has not been added or removed for a period of twenty-four (24) months.
- 4) *"Land and Water Conservation Committee"*, means the committee created by a county board under s. 92.06, Stats. Also referred to as the "L&WCC".
- 5) *"Land and Water Conservation Department"*, referred to as the "L&WCD", means the county staff assigned the responsibility of enforcing and providing technical assistance for this ordinance.
- 6) *"Manure"* means a material that consists primarily of excreta from livestock, poultry or other animals and any waste that may be generated from such manure.
- 7) *"Manure Storage facility"* means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural wastes.

Note: Multiple stacks from one operation is considered Manure Storage, unless stacks are temporarily placed on perspective fields prior to spreading. No temporary stacks shall exceed 7 consecutive months, nor 60 days production of 84 animal units (see appendix 1 Animal Units and Animal Equivalency Factors). All

temporary stacks shall be placed in a manner that prevents direct runoff to surface water or leaching pollutants to groundwater.

- (a) *"Impoundment"* means any earthen, concrete, wooden, steel or otherwise fabricated structure intended to hold an accumulation of manure, or
 - (b) *"Stack"* means a stored accumulation of mechanically placed manure.
- 8) *"Nutrient Management Plan"* means a written plan detailing the amount, form, placement, and timing of the application of plant nutrients, including animal manure. The plan must meet NRCS Standard 590 and must be written or approved by a person certified to do nutrient management planning.
- 9) *"Operator"* means a person responsible for the oversight or management of equipment, facilities, or livestock at a livestock operation, or is responsible for land management in the production of crops.
- 10) *"Permit"* means the signed, written statement issued by the Vernon County Land and Water Conservation Department under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter, or close an animal manure storage facility.
- 11) *"Permittee"* means any person to whom a permit is issued under this ordinance.
- 12) *"Person"* means any individual, corporation, partnership, joint venture, agency, unincorporated association, Municipal Corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- 13) *"Substantially Altered"* means a relocation of a structure or facility or significant changes to the size, depth, or configuration of a structure or facility.
- 14) *"Technical Guide"* means the USDA Natural Resources Conservation Service Field Office Technical Guide as adopted by the Vernon County Land and Water Conservation Committee and its' Department.
- 15) *"Water Pollution"* means contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

1.10 Manure Storage Facilities

(1) **APPLICABILITY.** All livestock producers building new manure storage facilities, substantially altering manure storage facilities, or choosing to abandon their manure storage facilities shall comply with this section..

(2) NEW CONSTRUCTION AND ALTERATIONS.

(a) New or substantially altered manure storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure of the facility, minimize leakage of the facility in order to comply with groundwater standards, and maintain one foot of freeboard storage or adequate freeboard storage to the

equivalent volume of a 25-year, 24-hour storm, whichever is greater.

(b) A new manure storage facility means a facility constructed after the effective date of this rule...[July 16th, 2002].

(c) A substantially altered manure storage facility is a manure storage facility that is substantially altered after the effective date of this rule...[July 16th, 2002].

The requirements of this ordinance are in addition to any other permits or requirements that may apply to construction or abandonment of animal manure storage facilities.

(3) CLOSURE.

(a) Closure of a manure storage facility shall occur when an operation where the facility is located ceases operations, or manure has not been added or removed from the facility of a period of 24 months. Manure facilities shall be closed in a manner that will restrict future contamination of groundwater and surface waters.

(b) The owner or operator may retain the facility for a longer period of time by demonstrating to the department that all of the following conditions are met.

- 1) The facility is designed, constructed and maintained in accordance with sub.(2).
- 2) The facility is designed to store manure for a periods of time longer than 24 months.
- 3) Retention of the facility is warranted based on anticipated future use.

(4) FAILING AND LEAKING EXISTING FACILITIES. Manure storage facilities in existence as of the effective date of this rule...[July 16th, 2002] that pose an imminent threat to public health or fish and aquatic life or are causing a violation of groundwater standards shall be upgraded, replaced or abandoned in accordance with this section.

1.11 STANDARDS

Compliance with this Ordinance shall be through technical standards listed in (1)-(3). The Vernon County Land and Water Conservation Committee may adopt additional standards, specifications and policies consistent with these provisions, which shall be available for inspection and copying at the Land and Water Conservation Department.

- 1) STANDARD FOR A WASTE MANAGEMENT SYSTEM. The planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas, in a manner that does not degrade air, soil, or water resources is standard 312 (waste management system) in the Technical Guide.
- 2) STANDARD FOR A WASTE STORAGE FACILITY. The standard for a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure is standard 313 (waste storage facility) in the Technical Guide.

- 3) STANDARD FOR ANIMAL MANURE MANAGEMENT AND UTILIZATION. The standard for management of animal manure storage facilities and utilization of animal manure is standard 590 (nutrient management) in the Technical Guide.
- 4) STANDARD FOR CLOSURE OF WASTE IMPOUNDMENTS. The standard for closure of waste impoundments that are no longer used for their intended purpose, in an environmentally safe manner is standard 360 (closure of waste impoundments) in the Technical Guide
- 5) SUBSEQUENT MODIFICATION OF STANDARDS. The standards of the Technical Guide are adopted and by reference made a part of this ordinance as if fully set forth. Any future amendment, revision or modification of the Standards incorporated herein are made a part of this ordinance.

1.12 APPLICATION FOR AND ISSUANCE OF PERMITS

APPLICABILITY. All livestock producers building new manure storage facilities, substantially altering manure storage facilities, or choosing to close their manure storage facilities shall comply with this section.

1. EXCEPTION TO PERMIT REQUIREMENT EMERGENCY repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of obstructions from transfer pipes may be performed without a permit. If repairs will substantially alter the original design and construction of the facility, the Land and Water Conservation Department must be notified within two (2) work days of the emergency for a determination by the Land and Water Conservation Department on whether a permit will be required for any additional alteration or repair to the facility.

2. FEE A non-refundable fee of \$75 will be required for the permit. A non-refundable fee of \$500.00 will be charged for a permit after any construction has commenced without a permit. This fee shall be in addition to any other penalties that may be imposed under this ordinance or by law. No fee will be charged for an abandonment permit.

3. ANIMAL MANURE STORAGE FACILITY PLAN. Each application for a permit under this section shall include an animal manure storage facility plan meeting NRCS 312 and 634 standards. The following is a partial list of plan components:

- A management assessment is required. As part of this assessment an initial determination will be conducted to demonstrate that suitable land base is available for utilization of waste.
- The number and kinds of animals for which waste storage is provided, the duration for which storage is to be provided, or daily gallons and/or cubic feet of waste and manure produced.
- A plan view of the facility and its location in relation to waste transfer inlet, all buildings, roads, wells, lot lines, and other features within three hundred (300) feet of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.

- The structural details, including but not limited to dimension, cross-sections, and concrete thickness, concrete joint design and placement, design loads, design computations, reinforcement schedules, thickness and placement of groundwater protection liners, and all material specifications.
- The soil test pit locations and soil descriptions to a depth of at least five feet below the planned bottom of the facility.
- The elevation of seasonally high groundwater or bedrock if encountered in the soil profile and date of any such determination.
- Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 500' of the facility, the location and distance to the body of water shall be shown. Any flood plains and/or wetlands shall be located also.
- The scale of the drawing and a north arrow.
- A time schedule for construction of the facility.
- A description and construction plan of the method to be used in transferring animal waste into and from the facility.
- A 590 Nutrient Management Plan: the plan shall specify the utilization of the animal waste, including the amount of land available for application of waste, identification of the areas where the waste will be used, crops, crop rotation, application rates, soil types and any limitation on waste application due to soil limitations, type and proximity of bedrock or water table, slope of land, and proximity of surface water.
- The landowner shall complete a 590 plan agreement. The agreement states that the plan shall be submitted to the LCD no later than March 15th of the year following installation of the animal waste storage facility.
- Any other additional information required by Technical Standard 313 to determine compliance with this ordinance.

4. CLOSURE PLAN. Each application for a closure permit under this ordinance shall include a closure plan prepared in accordance with Technical Standard 360, and specify:

- A description of the type and size of the manure storage facility and an estimate of the amount of manure in the facility.
- A description of how and where the manure and soil saturated with manure will be land applied in accordance with the current Technical Standard 590.
- A description of how the liner, if any, will be disposed of.
- A description of how the manure transfer system will be removed or permanently plugged.
- A description of how the excavated area will be filled in and where the clean fill will come from.
- A plan view showing the final grade, the area to be reseeded, and how rain and runoff will be diverted away from the site.
- Other additional information required by Technical Standard 360 to comply with this ordinance

5. REVIEW OF APPLICATION. The Land and Water Conservation Department shall receive and review all permit applications. Permit applications must be received on forms approved by the L&WCD. The L&WCD shall determine if the

proposed facility meets required standards set forth in this ordinance. Within thirty (30) working days after receiving the completed application and fee, the Land and Water Conservation Department shall inform the applicant in writing whether the permit application is approved or disapproved.

If additional information is required, the Land and Water Conservation Department shall so notify the permit applicant. The Land and Water Conservation Department has 30 working days from the receipt of the additional information in which to approve or disapprove the application.

6. PERMIT CONDITIONS. All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

- a) Animal manure storage facility design, construction, management, and utilization activities shall be carried out in accordance with the L&WCD approved animal manure facility plans and applicable standards specified in Section 1.11 of this ordinance.
- b) The permittee shall give five (5) working days notice to the L&WCD before starting any construction activity authorized by the permit.
- c) Approval in writing must be obtained from the County Conservationist (or designee) prior to any modifications to the approved animal manure facility plan.
- d) Within thirty (30) days of construction or closure, the facility must be certified as meeting standards, including as-built plans and design changes. The certification must be made by a registered PE, or by a DATCP, L&WCD, or NRCS certified Engineering Practitioner. This certification must be made before the storage facility is put into service or closed.
- e) Animal manure storage facility removal or closure shall be carried out in accordance with the facility closure plan and applicable standards. The plan shall be certified as meeting the requirements of this Ordinance by a registered PE, or by a DATCP, L&WCD, or NRCS certified Engineering Practitioner.
- f) The L&WCD staff will contact the landowner to conduct on site inspections during and after construction.
- g) Activities authorized by permit must be completed within eighteen (18) months from the date of issuance after which such permit shall be void. The County Conservationist upon written request, and for good cause shown, may grant one extensions of up to one year from the permit tee.

7. PERMIT REVOCATION THE L&WCD may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material in the permit application or plans referenced in this ordinance, or if the holder of the permit violates any of the conditions of the permit.

1.13 ADMINISTRATION

- 1) **DELEGATION OF AUTHORITY.** Vernon County hereby designates the Vernon County Conservationist or designee to enforce this ordinance.
- 2) **ADMINISTRATIVE DUTIES.** In the administration of this ordinance, the County Conservationist or that person's representative shall:
 - a) Keep an accurate record of all permit applications, animal manure facility plans, permits issued, inspections made, and other official actions.
 - b) Review permit applications and issue permits in accordance with this ordinance.
 - c) Investigate complaints relating to compliance with the ordinance.
 - d) Monitor permitted activities for compliance with this chapter.
 - e) Provide technical services to the extent resources are available
 - f) Perform other duties as specified in this ordinance.
- 3) **INSPECTION AUTHORITY.** Pursuant to Sec. 92.07(14), Wis. Stats, the L&WCC and its agents, are authorized to enter upon lands affected by this ordinance to insure compliance. If the applicant or permit tee refuses permission to enter the land, then the Vernon County L&WCC or its designee shall enter under its legal authority.
- 4) **ENFORCEMENT AUTHORITY.** The County Conservationist, or designee is authorized to post an order stopping work upon land which has had a permit revoked or on land in violation of this ordinance. Notice is given by both posting upon the land where the violation occurs, one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. The order shall specify that the activity must cease immediately and be brought into compliance within five (5) working days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the L&WCC, the County Conservationist, or by a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The Land and Water Conservation Department is authorized to refer any violation of this ordinance to the corporation counsel for commencement of further legal proceedings seeking penalties and other appropriate relief in enforcement of the ordinance.

1.14 VIOLATIONS

Any person who violates for fails to comply with any of the provisions after they have been notified of this ordinance shall be subject to a forfeiture of not less than two hundred and fifty dollars (\$250.00) nor more than \$2,000.00 plus costs of prosecution for each violation. A violation includes failure to comply with any standard or provision of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense. Citations shall be issued by the LCD, upon approval of the Corporation Counsel, pursuant to law, for violations of the ordinance.

ENFORCEMENT BY INJUNCTION: In lieu of or in addition to forfeiture actions, Vernon County may seek judicial enforcement of any part of this ordinance by injunction or restraining order or appropriate writ.

1.15 APPEALS

- 1) **AUTHORITY.** Under authority of Chapter 68, Wis. Stats., the Vernon County Land and Water Conservation Committee is authorized to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination by the County Conservationist, or designee in administering this Ordinance.
- 2) **PROCEDURE.** Any appeal shall be made by written request, mailed or delivered to the Vernon County Land and Water Conservation Committee, 220 Airport Road, Viroqua, WI. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The Committee shall, as soon as reasonable, but no later than its next regular meeting, review the determination under appeal.
- 3) **WHO MAY APPEAL.** Appeals may be taken by any person having a substantial interest, which is adversely affected by the order, requirement, decision, or determination made by the County Conservationist, the designee, the L&WCD, or the L&WCC.

Appendix 1

Number Equivalent to 84 Animal Units	Subcategory of Animal Types	Animal Equivalency Factor
<u>DAIRY CATTLE:</u>		
60	Milking and Dry Cows	1.4
76	Heifers (800 to 1200 lbs)	1.1
140	Heifers (400 to 800lbs)	0.6
420	Calves (under 400 lbs)	0.2
<u>BEEF CATTLE:</u>		
84	Steers or Cows (1000 lbs to Mkt)	1.0
105	Steers or Cows (600 to 1000 lbs)	0.8
168	Calves (under 600 lbs)	0.5
60	Bulls	1.4
<u>SWINE:</u>		
210	Pigs (55 lbs to Mkt)	0.4
840	Pigs (up to 55 lbs)	0.1
210	Sows	0.4
168	Boars	0.5
<u>SHEEP:</u>		
840	Per Animal	0.1
<u>HORSES:</u>		
42	Per Animal	2.0
<u>DUCKS:</u>		
420	Per Bird (Wet Lot)	0.2
8400	Per Bird (Dry Lot)	0.01
<u>CHICKENS:</u>		
8400	Layers	0.01
16,800	Broilers	0.005
<u>TURKEYS:</u>		
4667	Per Bird	0.018